TEXAS DEPARTMENT OF INSURANCE
Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)
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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name
MARY P. DEMERS, DO

Respondent Name
TEXAS MUTUAL INSURANCE CO

MFDR Tracking Number
M4-13-0353-01

Carrier's Austin Representative
Box Number 54

MFDR Date Received
OCTOBER 2, 2012

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "they are requesting that we bill them on the accepted CMS 1500 forms. This is how the claims are billed, including the paid May services."

Amount in Dispute: $1,005.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "one year from 9/26/11 is 9/26/12. The DWC date stamp on the requestor's DWC-60 lists date 10/2/12. Therefore, date 9/26/11 is not eligible for review per Rule 133.307. Regarding date 2/13/12, Texas Mutual has receipt of only one billing with the attached explanation of benefits (EOB). (Attachment) There are no EOBs in the requestor's DWC-60 packet. Therefore, the date is not ripe for review absent any evidence of a request for reconsideration per Rule 133.250."

Response Submitted By: Texas Mutual Insurance Co.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 26, 2011	CPT Code 99204 Office Visit	$334.00	$0.00
	CPT Code 86140 Lab Tests	$34.00	$0.00
	CPT Code 85652 Lab Tests	$25.00	$0.00
	CPT Code 84550 Lab Tests	$24.00	$0.00
February 13, 2012	CPT Code 99213 Office Visit	$161.00	$0.00
	CPT Code 80050 Lab Tests	$172.00	$0.00

February 13, 2012	CPT Code 80061 Lab Tests	$100.00	$0.00
	CPT Code 81001 Lab Tests	$36.00	$0.00
	CPT Code 84403 Lab Tests	$119.00	$0.00
TOTAL		$1,005.00	$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. Texas Labor Code §408.027, effective September 1, 2007, sets out the rules for timely submission of a claim by a health care provider.
3. 28 Texas Administrative Code §102.4 provides guideline to determine when written communication was sent.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:

   Explanation of Benefits for date of service February 13, 2012
   - CAC-29-The time limit for filing has expired.
   - 731-Per 133.20 provider shall not submit a medical bill later than the 95th day after the date the service for services on or after 9/1/05.

Issues

1. Does medical fee dispute resolution have jurisdiction to review this dispute?
2. Did the requestor waive the right to medical fee dispute resolution?
3. Does the documentation support that the requestor submitted the bills within the 95 day deadline to the insurance carrier?

Findings

1. The requestor provided evaluation and management and laboratory testing services in the state of Alaska on September 26, 2011 and February 13, 2012 to an injured employee with an existing Texas Workers' Compensation claim. The requestor was dissatisfied with the respondent's final action. The requestor filed for reconsideration and was denied payment after reconsideration. The requestor filed for dispute resolution under 28 Texas Administrative Code §133.307. The Division concludes that because the requestor sought the administrative remedy outlined in 28 Texas Administrative Code§133.307 for resolution of the matter of the request for additional payment, the dispute is to be decided under the jurisdiction of the Texas Workers' Compensation Act and applicable rules.
2. 28 Texas Administrative Code §133.307(c)(1) states: "Timeliness. A requestor shall timely file the request with the division's MFDR Section or waive the right to MFDR. The division shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section. (A) A request for MFDR that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute." The dates of the services in dispute are September 26, 2011 and February 23, 2012. The request for medical dispute resolution was received in the Medical Fee Dispute Resolution (MFDR) section on October 2, 2012. This date is later than one year after the September 26, 2011 date of service in dispute. Review of the submitted documentation finds that the disputed services do not involve issues identified in §133.307(c)(1)(B). The Division concludes that the requestor has failed to

timely file this dispute with the Division's MFDR Section; consequently, the requestor has waived the right to medical fee dispute resolution for date of service September 26, 2011.

3. According to the explanation of benefits, the respondent denied reimbursement for the services rendered on February 13, 2012 based upon reason code "CAC-29."

   Texas Labor Code §408.027(a) states "A health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the date on which the health care services are provided to the injured employee. Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment."

   28 Texas Administrative Code §102.4(h), states "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday." A review of the submitted documentation does not contain any evidence such as a fax, personal delivery, electronic transmission, or certified green cards to support the bill was sent to the respondent.

   The Division finds that the requestor did not submit any documentation to support that the disputed bills were submitted timely in accordance with Texas Labor Code §408.027(a). As a result, reimbursement is not recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that reimbursement is not due. As a result, the amount ordered is $0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to $0.00 reimbursement for the disputed services.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	10/29/15 Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012**.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.